

REMARKS

With this reply, claims 1, 31, 59, 85 and 120 are amended, while claims 3, 32, 60, 86, and 110-113 are cancelled. Upon entry of the amendments, claims 1, 2, 4-31, 33-59, 61-85, 87-109, and 114-120 remain pending. Support for the amendments is found in the specification as originally filed. The subject matter of cancelled claims 3, 32, 60, and 86 has been incorporated into amended claims 1, 31, 59, and 85, respectively. No new matter is added. Applicants respectfully request entry of the amendments.

INFORMATION DISCLOSURE STATEMENT

Applicants have filed an Information Disclosure Statement along with this Amendment. The Examiner is respectfully requested to consider the art cited and return an initialed copy of Form 1449 with the next action on the merits.

REJECTION UNDER 35 U.S.C. §112

Claims 1, 31, 59, 85, and 110 stand rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. In response, Applicants have deleted the phrase "an immediate release core" from claims 1, 31, 59, and 85 and have cancelled claim 110. Applicants respectfully request that the rejection, as applied to the amended claims, be withdrawn.

REJECTIONS IN LIGHT OF SETH '471

In section 10 of the Office Action, claims 1-4, 6-14, 16-22, 28-32, 34-42, 44-50, and 56-58 are rejected under 35 U.S.C. § 102(e) as anticipated by the Seth '471 patent.

In section 22 of the Office Action, claims 1-14, 16-42, 44-69, 71-95, and 97-120 stand rejected as obvious in view of the Seth '471 patent (U.S. Pat. 6,350,471) in view of the Buhler reference (U.S. Pat. 6,592,900) and Remington's Pharmaceutical Sciences (1990, 18th Ed., Chpt. 89, p. 1637).

Applicants respectfully maintain their position from earlier prosecution that the Seth '471 patent does not anticipate or make obvious the claims. Applicants

request the rejections be withdrawn for the reasons discussed in their amendment of October 12, 2007.

In addition, and in the interest of advancing prosecution, Applicants offer a Declaration removing the Seth '471 patent as prior art. The Seth '471 patent is available as prior art only under 35 U.S.C. § 102(e), which requires that the cited reference be by "another." The enclosed Declaration demonstrates that the disclosure of the Seth '471 patent relied on by the Examiner is derived from the current inventors and is therefore not by "another." The Declaration contains the required unequivocal statement from the Applicants regarding the relevant subject matter disclosed in the Seth '471 patent. According to MPEP § 716.10 such an uncontradicted statement will be accepted as establishing inventorship of the current subject matter.

For these additional reasons, Applicants respectfully request that the rejections of the claims over the Seth '471 patent be withdrawn.

REJECTIONS OVER MOECKEL US 5,955,106

In section 3 of the Office Action, Claims 1, 2, 6-18, 20, 22, 29, and 30 are rejected under 35 U.S.C. § 102(b) as anticipated by the Moeckel reference (U.S. Pat. No. 5,955,106).

In section 14 of the Office Action, claims 1, 2, 4-18, 20, 22-27, 29-31, 33-46, 48, 50-55, 57-59, 61-73, 75, 77-81, 83, 85, 87-99, 101, 103-106, and 108-112 are rejected under 35 U.S.C. § 103(a) as unpatentable over the Moeckel reference in view of the Buhler reference and/or Remington's Pharmaceutical Sciences.

Applicants respectfully traverse the rejections over the Moeckel reference as applied to the amended claims and request reconsideration.

Applicants note that claims 3, 32, 60, and 86 are considered novel and non-obvious over Moeckel. Applicants have amended claims 1, 31, 59, and 85 to incorporate the allowable subject matter of claims 3, 32, 60, and 86 respectively. In addition, rejected claims 110-112 have been cancelled. Because as noted the amended independent claims are patentable, so are the dependent claims: claims 2-30 depend from amended claim 1; claims 32-58

depend from amend claim 31; claims 60–84 depend from amended claim 59; and claims 86–109 depend from amended claim 85. All of the amended claims contain allowable subject matter.

For these reasons, Applicants respectfully request that the rejections of the claims as anticipated or obvious over the Moeckel reference be withdrawn.

REJECTIONS OVER CHENG (U.S. PAT. NO. 6,099,859)

In section 29 of the Office Action, claims 1, 22, 29 and 30 are rejected under 35 U.S.C. § 102(b) as being anticipated by the Cheng reference (U.S. Pat. No. 6,099,859).

In section 32 of the Office Action, Claims 1, 2, 4-27, 29-31, 33-35, 57-59, 61-81, 83-85, 87-106, and 108-112 are rejected under 35 U.S.C. § 103(a) as obvious over Cheng in view of Moeckel and further in view of the Buhler reference and Remington's Pharmaceutical Sciences.

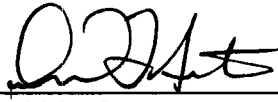
Again, Applicants note that claims 3, 32, 60, and 86 are not rejected. The allowable subject matter of those claims has been incorporated by amendment into independent claims 1, 31, 59, and 85, respectively. In addition, rejected claims 110-112 have been cancelled. Accordingly, Applicants respectfully request that the rejections over the Cheng reference, as applied to the amended claims, be withdrawn.

CONCLUSION

For the reasons discussed above, Applicants believe that claims 1, 2, 4-31, 33-59, 61-85, 87-109, and 114-120 are in an allowable condition and respectfully request an early Notice of Allowance. The Examiner is invited to telephone the undersigned if that would be helpful to resolving any issues.

Respectfully submitted,

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